

House Bill 1000

By: Representatives Day of the 163<sup>rd</sup>, Neal of the 1<sup>st</sup>, Horne of the 71<sup>st</sup>, Chambers of the 81<sup>st</sup>,  
and Cox of the 102<sup>nd</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions relative to sheriffs, so as to provide for the responsibility and duties of the sheriff regarding courthouse and courtroom security; to provide notice and hearing; to provide for factors to consider in determining appropriate security measures; to provide for instruction to the jury; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions relative to sheriffs, is amended by replacing a repealed Code section designated as Code Section 15-16-17 with the following:

"15-16-17.

(a) The sheriff has official responsibility for security systems, measures, and precautions for the courthouse and each individual courtroom, including any defendant's restraints that will not in the ordinary course of the trial be visible to jury members or persons eligible for selection as members of the jury.

(b) With regard to any jury trial in a criminal case, it shall be the duty of the sheriff to provide written notice to the presiding judge of the security plan for each defendant before the commencement of voir dire or jury selection. If the security plan for a criminal defendant includes restraint of the defendant in the presence of jury members or persons eligible for selection for a jury for such trial, the presiding judge shall conduct a hearing on the record, with an opportunity for the defendant's counsel and the prosecuting attorney to be heard and to present evidence regarding the plan for such restraint. After hearing counsel, the presiding judge shall state his or her opinion for the record. The sheriff shall have the responsibility to determine whether to use any restraint that will not in the ordinary

1 course of the trial be visible to jury members or persons eligible for selection as jurors in  
2 the trial.

3 (c) In determining the security plan before the hearing and in determining whether to alter  
4 such security plan after the hearing, the sheriff shall consider the following factors:

5 (1) The opinion of the judge presiding at the trial;

6 (2) Evidence presented at the hearing;

7 (3) Any previous escapes from custody or escape attempts by the defendant;

8 (4) Any history of violence by the defendant;

9 (5) Any threats by the defendant;

10 (6) The defendant's constitutional right to a fair and impartial trial; and

11 (7) Any other factor relating to the public safety.

12 (d) During a jury trial in any criminal case, the court shall instruct the jury that criminal  
13 defendants are frequently restrained as a precaution in the interest of public safety and that  
14 members of the jury should not consider any restraint of the defendant that they observe  
15 as evidence of guilt. Such instruction shall not state whether the defendant is being  
16 restrained."

17 **SECTION 2.**

18 This Act shall become effective on July 1, 2006.

19 **SECTION 3.**

20 All laws and parts of laws in conflict with this Act are repealed.